

MINUTES
PROTECTION & WELFARE COMMITTEE
Monday, July 28, 2014
City Hall, Room 207
5:00 p.m.

MEMBERS PRESENT: Ald. Wery, Ald. Tim De Wane, Ald. Steuer, and Ald. Scannell
MEMBERS EXCUSED: None
MEMBERS ABSENT: None
OTHERS PRESENT: Jim Mueller—Asst. City Attorney, Patrick Leigl—Asst. City Attorney, Capt. Runge, Ald. Wiezbiskie, and other interested parties.

1. Roll Call.

Ald. Wery, Ald. Tim De Wane, Ald. Steuer and Ald. Scannell were present.

2. Approval of the Agenda.

A motion was made by Ald. Tim De Wane and seconded by Ald. Steuer to approve the agenda. Motion carried.

3. Approval of the regular and special minutes from the June 30, 2014 meetings.

A motion was made by Ald. Tim De Wane and seconded by Ald. Scannell to approve the regular and special minutes from the June 30, 2014 meetings. Motion carried.

4. Application for 1 of 11 available "Class B" Combination License by Titledown Tobacco, LLC at 320 N. Broadway, Suite 310.

The City Attorney's Office and the Green Bay Police Department (GBPD) had no objections.

Glen Sherman, 921 Twilight Drive, De Pere, distributed an informational packet. Mr. Sherman stated the business is currently a cigar lounge in Allouez; however their intent is to move the business to Green Bay and they would like to offer premium drinks along with their premium cigars.

Atty. Mueller stated it is his understanding they have a license from the State so they are exempted from the smoking ban due to a grandfather clause.

Discussion included that cigarette smoking is still banned; however cigar and pipe smoking is allowed.

A motion was made by Ald. Scannell and seconded by Ald. Steuer to approve the application for 1 of 11 available "Class B" Combination License by Titledown Tobacco, LLC at 320 N. Broadway, Suite 310 with the approval of the proper authorities. Motion carried.

5. Renewal application for a Class "B" Beverage and "Class C" Wine License by Auten's Eatery, LLC at 1015 W. Mason Street.

The City Attorney's Office and the Green Bay Police Department (GBPD) had no objections.

A motion was made by Ald. Tim De Wane and seconded by Ald. Scannell to approve the renewal application for a Class "B" Beverage and "Class C" Wine License by Auten's Eatery, LLC at 1015 W. Mason Street with the approval of the proper authorities. Motion carried.

6. Application for a "Class B" Combination License by Gasoline Bar, LLC at 709-711 S. Broadway.

Atty. Mueller stated the City Attorney's Office expressed their reservations regarding this license at the last meeting and will defer to the GBPD for a recommendation. The license was granted, but not issued to the applicant due to the failure of the applicant to pick up the license. The applicant now has to reapply for this license year.

Capt. Runge reported this address is in Capt. Bongle's district and Capt. Bongle recommends denial based on the previous issues at this address. Capt. Runge stated the applicant was unresponsive when the GBPD continuously tried to contact him to review his business plan. When a plan was finally submitted, required information was missing. The whole process was drawn out and did not go smoothly. The applicant also admitted he doesn't have any experience running a liquor establishment. The applicant did not attempt to pick up his license when it was approved and then let it lapse. This demonstrates a lack of his commitment to managing the business. It is for all these reasons the GBPD recommends denial.

Ald. Wery opened the floor without objection.

Reza Nikkhakian, 2235 Balsam Way, appeared and stated he was remodeling the building and wasn't aware that he needed to pick up his license. Mr. Nikkhakian stated that the building wasn't ready to open then anyhow.

Ald. Steuer inquired if the license would be considered forfeited if the applicant doesn't pick it up. Atty. Mueller replied if the license isn't picked up it is considered void. Ald. Steuer stated that Mr. Nikkhakian was made aware of this Committee's decision that the license was granted at that meeting and he had had to pick it up. If he had any questions regarding the license he should have contacted the GBPD or the City Attorney's Office. Ald. Steuer stated that Mr. Nikkhakian needed to be proactive and work with the City, and that he agrees with the GBPD that the applicant needs to show accountability in order to be licensed.

Mr. Nikkhakian stated all these old issues being brought up were answered at the last meeting. The only issue to discuss today is the fact he didn't pick up the license he was granted. Mr. Nikkhakian stated he believed once he was granted

the license he could get it at any time; therefore he was waiting until the business opened before coming to get it.

Ald. Steuer asked Mr. Nikkhakian to reiterate how he plans to run this business.

Mr. Nikkhakian replied the new business will have 50's and 60's music and a hot rod theme, which will bring in a different crowd than the previous business had. He has always been interested in old model cars and would like to have a car show held outside the bar some time. He has invested a great deal of money into remodeling this business. Mr. Nikkhakian stated he handed the GBPD a list of his employees at their last meeting and they were all approved. Mr. Nikkhakian reported that he owns other businesses and has never had any problems which had to involve the GBPD.

Officer Ronald Schaden stated the GBPD did a background check on Mr. Nikkhakian's potential employees and there was an issue with one of them; Mr. Nikkhakian did not employ that individual. Officer Schaden stated the other employees were approved. Officer Schaden stated he had to go to Mr. Nikkhakian's business several times to get information for his security plan because Mr. Nikkhakian wasn't responding to his requests to meet with him at the GBPD. He has concerns on how Mr. Nikkhakian is going to manage this business at the same time he's managing his restaurant.

Mr. Nikkhakian responded that he hired an attorney to ensure the paperwork was filled out correctly. The attorney is in the navy and when he was deployed is when the GBPD started asking questions Mr. Nikkhakian didn't know how to respond to himself and had to wait for the attorney to email him the answers. Mr. Nikkhakian admitted he didn't make the police aware he was waiting for an answer from his attorney.

Ald. Wery returned to regular order of business.

A motion was made by Ald. Tim De Wane and seconded by Ald. Wery to approve the application for a "Class B" Combination License by Gasoline Bar, LLC at 709-711 S. Broadway with the approval of the proper authorities. Motion carried, with Ald. Steuer voting no.

7. Request by the owner of Brewski's, 1100 S. Broadway, to hold an outdoor event on August 2.

The City Attorney's Office and the GBPD had no objections.

Atty. Mueller stated he has received most of the information regarding this request, however he inquired if the applicant is asking for an extension of their liquor license to include an outdoor area.

Ald. Wery opened the floor without objection.

Randy Trembl, 1100 S. Broadway, appeared and stated they won't be serving alcohol outside; however his patrons can take their drinks outside. Security will be in place and the event will end at 10:00 p.m.

A motion was made by Ald. Tim De Wane and seconded by Ald. Scannell to approve the request by the owner of Brewski's, 1100 S. Broadway, to hold an outdoor event on August 2. The approval of the request is subject to complaint. Motion carried.

8. Request by Ald. Wiezbiskie to develop an ordinance similar to the City of Wausau with regards to the use of cell phones and other handheld electronic devices while driving (referred to staff at the February 24, 2014 meeting).

Atty. Mueller distributed a draft ordinance and stated it was based on the Wausau's ordinance and that the City Attorney's Office doesn't have a recommendation regarding this item. The ordinance is somewhat duplicative with the inattentive driving statute; the main difference is the cell phone ban is proactive meaning you can't ever hold a cell phone to your ear whereas inattentive driving there has to be some bad driving or behavior with the cell phone use.

Ald. Wery opened the floor without objection.

Ald. Wiezbiskie appeared and spoke of several instances where he was almost hit by a car when the driver was using their cell phone. Ald. Wiezbiskie stated that the City of Wausau recognized how dangerous cell phone usage while driving a car can be and created an ordinance to prohibit this. It is his hope that City leaders across Wisconsin encourage the State to develop a law that prohibits this.

Ald. Wiezbiskie stated that staff did a very good job drafting the ordinance and it includes everything he requested. This ordinance would also apply to people on bicycles, joggers or walkers and make our City a safer place to live in. Signs at the entrances into the City can be posted stating the cell phone ban, and after people start receiving fines and courts costs word would spread not to use your phone while in the car in Green Bay.

Discussion that followed centered on how many cities have this ban and if there are statistics available stating the number of accidents caused by cell phone usage.

Ald. Wery returned to regular order of business.

Ald. Wery stated he believes this is more of a State wide related issue, like the cigarette ban was, and that the inattentive driving ordinance seems to cover this issue.

Ald. Steuer stated that the GBPD already have enough issues to deal with and that they would be constantly pulling people over if this ordinance came into effect. He also agreed this should be a State wide issue.

A motion was made by Ald. Steuer and seconded by Ald. Tim De Wane to deny Ald. Wiezbiskie's request to develop an ordinance similar to the City of Wausau with regards to the use of cell phones and other handheld electronic devices while driving (referred to staff at the February 24, 2014 meeting). Motion carried.

9. Request by Ald. Moore to amend the Green Bay Municipal Code §8.08 to limit the number of dogs permitted in residential neighborhoods.

Atty. Mueller stated that Ald. Moore contacted him and asked that this item be postponed until the next meeting.

Ald. Wery requested that the Animal Control Officer appear at the next meeting, or give an opinion, regarding Ald. Moore's request.

A motion was made by Ald. Tim De Wane and seconded by Ald. Scannell to postpone the request by Ald. Moore to amend the Green Bay Municipal Code §8.08 to limit the number of dogs permitted in residential neighborhoods. Motion carried.

10. Request by staff to amend Green Bay Municipal Code §15.68 – Building Maintenance to include maintenance of other structures on property.

Atty. Mueller stated this is an ordinance regarding the maintenance of commercial buildings that was passed in 2013. Staff would like to amend it to include keeping accessory structures in a functioning and clean manner. Atty. Mueller also pointed out the wording "shall be keep" should be "shall be kept".

A motion was made by Ald. Scannell and seconded by Ald. Steuer to approve as amended the request by staff to amend Green Bay Municipal Code §15.68 – Building Maintenance to include maintenance of other structures on property. Motion carried.

11. Appeal by Wesley Renard to the denial of his Operator License application.

Atty. Mueller stated the City Attorney's Office recommends denial based on the applicant's arrest and conviction record which substantially relates to the licensed activity. There was a felony conviction in 2013 of possession and intent to deliver amphetamine, possession of drug paraphernalia which was dismissed, a misdemeanor for possession of THC, and two counts of drug paraphernalia which were also dismissed. In 2010 misdemeanors for theft, criminal damage to property and disorderly conduct.

Capt. Runge stated the GBPD also recommends denial for the same reasons.

Ald. Wery opened the floor without objection.

Wesley Renard, 5815 Easy Street, appeared and stated he currently works at C&D Mobil and needs his license to sell beer there. Mr. Renard distributed letters of support from his employer, parole officer and his father. Mr. Wesley stated that a condition of his probation is not to consume alcohol or to enter an

establishment where the primary purpose is to sell alcohol. He received permission from his parole agent to sell beer at the C&D. He is following the other conditions placed on him. He no longer has contact with people who are bad influences on him and is living at home again. C&D was the only place that would hire him with his record and he would like to keep it. He also works full-time for his father; however a second job keeps him busy, out of trouble and helps pay his bills.

A motion was made by Ald. Steuer and seconded by Ald. Tim De Wane to approve the appeal by Wesley Renard to the denial of his Operator License application. Motion carried.

12. Appeal by Stacey Powlak to the denial of her Operator License application.

Atty. Mueller stated the City Attorney's Office recommends denial based on the applicant's conviction record which substantially relates to the licensed activity. The applicant has violated the States smoking ban once a year for past three years.

Capt. Runge stated the GBPD also recommends denial for the same reasons.

Stacey Powlak, 1658 Langlade Avenue, appeared and stated she works at the Courthouse. Ms. Powlak stated she's had a license for 22 years and takes responsibility for two of the three charges, one of the charges should have been applied to a coworker. She paid the fines and hasn't allowed smoking there since. Ms. Powlak also stated that her last name is spelled wrong, the correct spelling is Pawlak.

Cindy Rivard, 1657 Edison Street, appeared and stated she is the owner of the Courthouse Bar & Grill. Ms. Rivard stated that Stacey was responsible for two of the charges and the individual who should have been ticketed for one of the three charges, instead of Stacey, no longer works there. The bar is in total compliance with the smoking ban.

A motion was made by Ald. Tim De Wane and seconded by Ald. Scannell to approve the appeal by Stacey Pawlak to the denial of her Operator License application. Motion carried.

13. Appeal by Gerald Lesperance Jr. to the denial of his Operator License application.

Atty. Mueller stated the City Attorney's Office recommends denial based on the applicant's conviction record which substantially relates to the licensed activity. Mr. Lesperance has felony charges in 2000 for burglary, criminal damage to property, and a theft charge which was dismissed.

Nobody appeared for this item.

A motion was made by Ald. Tim De Wane and seconded by Ald. Steuer to deny the appeal by Gerald Lesperance Jr. to the denial of his Operator License application. Motion carried.

A motion was made by Ald. Tim De Wane and seconded by Ald. Scannell to adjourn the meeting at 6:15 p.m. Motion carried.

For all licensing issues, the Committee may potentially convene in closed session pursuant to §19.85 (1)(b) and/or §19.85 (1)(f) Wisconsin Statutes, for the purpose of considering information with respect to licensing for a person. The applicant has the right to demand that the meeting be held in open session. The applicant may also request that the meeting be held in closed session. The Committee may, thereafter, reconvene in open session pursuant to §19.85(2) Wisconsin Statutes to report any actions taken during the closed session and to consider all other matters on the agenda.

If there are any questions regarding the agenda, please call Dawn, City Clerk's Office, at 448-3010.

ACCESSIBILITY: Any person wishing to attend who, because of a disability, requires special accommodation should contact the City Safety Manager at 448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.

Please take notice that it is possible that additional members of the Council may attend this committee meeting resulting in a majority or quorum of the Common Council. This may constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.

The audio tape and minutes of this meeting will be available at www.greenbaywi.gov